

Atlanta
Beijing
Brussels
Hong Kong
London
Los Angeles
Milan
New York
Orange County
Palo Alto
Paris
San Diego
San Francisco
Shanghai
Stamford
Tokyo
Washington, DC

(202) 551-1725
carlnorthrop@paulhastings.com

March 6, 2006

57739-000013

VIA ELECTRONIC FILING (ECFS)

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notice of *Ex Parte* Communication
Advanced Wireless Services Auction Public Notice (AU Docket No. 06-30)

Dear Ms. Dortch:

On March 5, 2006, Carl Northrop of Paul, Hastings, Janofsky & Walker LLP, on behalf of MetroPCS Communications, Inc., submitted the attached e-mail addressing matters related the above-referenced proceeding to the following Commission staff members:

Martha Stancill	Fred Campbell	Scott MacKoul
Walter Strack	Margaret Wiener	Peter Corea
Leslie Marx	Jim Schlichting	Sandra Danner
Evan Kwerel	Brian Carter	Gary Michaels
Benjamin Freeman	Rita Cookmeyer	Kelly Quinn

In accordance with Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206, this letter is being electronically filed with your office.

Kindly refer any questions in connection with this letter to the undersigned.

Respectfully Submitted,



Carl W. Northrop
of PAUL, HASTINGS, JANOFSKY & WALKER LLP

Attachment

-----Original Message-----

From: Northrop, Carl

Sent: Sunday, March 05, 2006 1:43 PM

To: 'Fred.Campbell@fcc.gov'; 'Leslie.Marx@fcc.gov'; 'Martha.Stancill@fcc.gov'; 'Walter.Strack@fcc.gov'; 'Evan.Kwerel@fcc.gov'; 'Benjamin.Freeman@fcc.gov'; 'Margaret.Wiener@fcc.gov'; 'Jim.Schlichting@fcc.gov'; 'Brian.Carter@fcc.gov'; 'Rita.Cookmeyer@FCC.gov'; 'Scott.MacKoul@fcc.gov'; 'Peter.Corea@fcc.gov'; 'Sandra.Danner@fcc.gov'; 'Gary.Michaels@fcc.gov'; 'Kelly.Quinn@fcc.gov'

Cc: Mark Stachiw

Subject: Advanced Wireless Services Auction Public Notice (AU Docket No. 06-30)

Thank you for taking the time to meet with Mark Stachiw of MetroPCS Communications, Inc. and me to discuss the AWS auction procedures. We now have had an opportunity to review the reply comments filed on February 28 and would like to address a few points raised by the staff of the Bureau of Economics of the FTC and by Paul Milgrom and Gregory Rosston in their reply comments.

The FTC staff letter, which expressly indicates that it "does not necessarily represent the views of the [FTC]", offers only equivocal support for blind bidding. In the process, the letter actually endorses the MetroPCS view that there are publicly beneficial uses of bidder information, particularly for niche players with distinguishable business plans. The FTC staff states that: "Also noteworthy is that the information being withheld could potentially be useful to bidders in ways that do not relate to any sort of anti-competitive behavior" FTC Staff Letter, p. 4. The letter also echoes the concern expressed by MetroPCS and others that a blind auction could have unintended adverse consequences. The FTC staff states that "To our knowledge, the full implications of bidder anonymity have not been worked out for SMR auctions." Id. However, one implication is clear from the comments filed in this proceeding by financial institutions: fewer bidders and/or fewer well-funded bidders will participate in Auction No. 66 if blind bidding is used.

Having conceded that "[t]here are both advantages and disadvantages to withholding the bidder information," the FTC staff "on balance" comes out in favor of blind bidding largely because of the risk it perceives that bidders, knowing the identity of others, "can still potentially send signals by bidding far in excess of the previous highest bid, termed jump bidding." Id. at 3. We do not believe this is a valid concern because to our knowledge no allegations of signaling were raised in recent broadband PCS auctions, including Auction 58. If, however, this is the Commission's concern, it is better addressed by a more targeted approach -- limiting to some extent the ability of bidders to use jump bids, rather than taking the draconian step of withholding all bidder information. Any other result would truly be throwing out the baby with the bathwater.

Milgrom and Rosston likewise indicate that "there are advantages and disadvantages to balance in deciding about this disclosure policy." Milgrom/Rosston Reply, p. 1. Significantly, they recognize the pro competitive benefits of providing bidder information, noting that, with blind bidding, "the bidder suffers from the real efficiency loss resulting from being unable to adjust bids knowing the identities of possible future competitors or partners." Id. at 2. Indeed, they go so far as to acknowledge that this concern "bears weight in a policy analysis." Id. And they characterize as "real concerns" the loss of "valuable information" relating to the identity and likely technology choices of in-market competitors and neighbors. Id. Ultimately, however, they downgrade these concerns on the basis that the broadband wireless market has developed to the point where knowing the identity of bidders is "less important" than it was in the "early spectrum auctions." Id. at 2. This conclusion fails to account adequately for the fact that AWS spectrum licenses in Auction No. 66 are completely distinguishable from the licenses that were auctioned off in all the recent broadband spectrum auctions. For example, in both Auction No. 58 and Auction No. 35, a limited number of licenses in only certain geographic areas were sold. In contrast, the AWS auction will include a vast amount of spectrum -- 90 MHz -- nationwide. This represents an increase of over 30% of available spectrum in every market. The variety of geographic areas covered by the available AWS licenses is unprecedented, and the areas do not match the prior broadband PCS license territories. There also is no existing equipment currently being offered for this band, and the spectrum clearing obligations are unique. All things considered, AWS has very little resemblance to prior broadband auctions, which creates substantial uncertainty on spectrum values. Since the AWS auction represents a "whole new ballgame" Milgrom and Rosston are mistaken in their view that having bidder information is "less important" than it was in earlier auctions. In addition, their analysis fails to value adequately the pro-competitive effects of the growth and success of smaller niche players like MetroPCS, and the extreme importance to such players of knowing the competitive landscape in a market in order to bid rationally.

On balance, the Commission should conclude that the equivocal support for blind bidding, which continues to be based primarily on “theoretical economics literature” (FTC Staff Letter, p. 3), is outweighed by the strong pro-competitive, public interest benefits of transparency. We urge the Commission to resist these siren calls to experiment with the rules for this important auction.

An ex parte notice will be filed in the proceeding containing a copy of this e-mail communication.

Carl W. Northrop, Partner | Paul, Hastings, Janofsky & Walker LLP | 875 15th Street, N.W., Washington, D.C. 20005 |
direct: (202) 551-1725 | main: (202) 551-1700 | direct fax: (202) 551-0125 | carlnorthrop@paulhastings.com |
www.paulhastings.com